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Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context

Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment

Implementation Committee

Fortieth session
Geneva, 5–7 December 2017

Report of the Implementation Committee on its fortieth session

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I. Introduction

1. The fortieth session of the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment was held from 5 to 7 December 2017 in Geneva, Switzerland.

A. Attendance

2. The following members of the Implementation Committee for Convention and Protocol matters attended the session: Mr. Anders Bengtsson (Sweden); Mr. Volodymyr Buchko (Ukraine); Mr. Libor Dvorak (Czechia); Ms. Maria do Carmo Figueira (Portugal); Mr. Kaupo Heinma (Estonia); Ms. Zsuzsanna Pocsai (Hungary); Mr. Romas Svedas (Lithuania); Mr. Lasse Tallskog (Finland); and Ms. Nadezhda Zdanevich (Belarus). Ms. Aysel Babayeva (Azerbaijan) was absent. The Committee regretted that the Government of Azerbaijan had not yet appointed an alternate member to replace the permanent member.

B. Organizational matters

3. The Chair of the Committee opened the session. He informed the Committee that the hearing of Azerbaijan related to follow-up to decision VI/2 (see ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1) would not take place since the delegation of Azerbaijan had cancelled its plans to participate at the session and requested a postponement. The Committee was nevertheless invited to consider that matter and the written responses to its questions that Azerbaijan had sent in advance of the session. Considering its full agenda, the Committee agreed that it would prioritize the revision of draft decision VII/2 (ECE/MP.EIA/2017/8), taking into account the Committee's deliberations at its ad hoc session in Minsk on 12 June 2017 and the discussions held during and in the margins of the seventh session of the Meeting of the Parties to the Convention (Minsk, 13–16 June 2017) as mandated by the Meeting of the Parties (ECE/MP.EIA/23-ECE/MP.EIA/SEA/7, para. 27). Moreover, as suggested by the Chair, the Committee agreed to consider the proposal made by Ukraine at the seventh session that future compliance decisions for each individual compliance issue be presented in separate documents (ibid., para. 28). With the above adjustments, the Committee adopted its agenda as set out in document ECE/MP.EIA/IC/2017/5.

4. The Committee noted that, in addition to Azerbaijan, Belarus had not yet appointed an alternate member of the Committee and invited both countries to do so as soon as possible and by no later than by the Committee's next session.

5. The Committee then considered ways to improve the efficiency of its work. It called on the curators to improve the timeliness of the delivery of their analyses in order to facilitate the Committee's work and the merits of developing a general template or recommendations to guide the curators in presenting their analyses. In addition, it requested the secretariat to explore ways to make access to Committee documentation more user-friendly for Committee members. The Committee also addressed the availability of correspondence and working documents on compliance matters to Committee members when a direct or indirect conflict of interest could arise for certain members — as that issue was not currently addressed by the Committee's structure and functions and its operating rules.[1] The Committee agreed that Committee members should not have access to the

[1] A consolidated version of the operating rules is available as an electronic publication on the Committee's website: http://www.unece.org/env/eia/implementation/implementation_committee.html.

information made available to the Committee on compliance matters that regarded their own countries until the Committee had concluded its consideration of the matters. That was deemed important with a view to addressing any conflict of interest that might arise and also to ensure that there was no preferential treatment regarding access to information concerning cases against them for Parties that were represented on the Committee as compared with Parties that were not. The secretariat was invited to identify technical means to implement that. In addition, the Committee also agreed that once the reports on the Committee's sessions were made publicly available any information referred to in the reports could be made available upon request by the Parties concerned, subject to agreement by the submitter of the information.

6. The secretariat reported that, with the ratification by Denmark (on 25 July 2017) of the second amendment to the Convention from 2004, that amendment had entered into force on 23 October 2017 and the secretariat had recently published the text of the Convention as amended (ECE/MP.EIA/21/Amend.1).[2] The secretariat also highlighted that eight further ratifications were needed for the first (2001) amendment to the Convention to become operational, opening the Convention for accession to all United Nations member countries. The Committee took note of the information. Observing that, of the countries represented on the Committee, Azerbaijan and Ukraine had not yet ratified the two amendments and Belarus had not ratified the second amendment, the Committee urged those countries to ratify the amendments by the time of the intermediary session of the Meeting of the Parties to the Convention, to be held during the last quarter of 2018 or the first quarter of 2019.

II. Follow-up to decision VI/2

7. Discussions on the follow-up to decision VI/2 of the Meeting of the Parties to the Convention on the review of compliance with the Convention (see ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1) were not open to observers, in accordance with rule 17, paragraph 1, of the Committee's operating rules. The Committee members nominated by Belarus, Lithuania and Ukraine were absent during the Committee's consideration of matters where a direct or indirect conflict of interest could arise.

8. As a preliminary, the Committee further discussed the proposal by Ukraine to consider separating the revised text of draft decision VII/2 into a draft decision on general issues of compliance and separate draft decisions for each of the country-specific parts, instead of compiling those texts into one omnibus document as had been the practice so far. The Committee noted that the format of the draft decisions on compliance was not specified in the modus operandi of the Committee or the Meetings of the Parties. It considered that the presentation of each part of the draft decision separately could facilitate their consideration and adoption by the Meetings of the Parties. As a rule, it deemed crucial for the proper application of the Convention and the credibility of its review of compliance mechanism that compliance decisions were adopted in their entirety by consensus. Before taking a final decision at its next session about the format of draft decision VII/2 to be presented for the consideration of the Meeting of the Parties at its intermediary session, the Committee asked the secretariat to assist it in clarifying the possible layout and formatting, with the general part and each of the specific matters split into separate documents.

[2] Available from the publications page of the Convention website (http://www.unece.org/env/eia/publications.html).

A. Armenia (EIA/IC/CI/1)

9. The Committee then turned to consideration of the follow-up by Armenia on decision VI/2 (paras. 29–35) and the revision of draft decision VII/2 (paras. 38–47), taking into account information from Armenia dated 27 October 2017. The Committee welcomed the report by Armenia on the steps it had taken to bring its national legislative framework into full compliance with the Convention and its Protocol, including through preparing amendments to the Law on Environmental Impact Assessment and Expertise of 2014 and developing implementing regulations on environmental impact assessment, strategic environmental assessment and procedures on public participation.

10. The Committee asked its Chair to write to the Government of Armenia to urge it to adopt the proposed amendments and the secondary legislation without delay. In the letter, the Chair should also ask Armenia to update the Committee by 12 February 2018 on progress and, if the legislation had already been adopted, to provide an English translation of that legislation for the Committee's consideration.

11. The Committee agreed to review and revise the text of draft decision VII/2 regarding Armenia at its subsequent sessions, taking into account the progress to be made by Armenia in bringing its law fully in line with the Convention and the Protocol and in adopting the subsidiary legislation.

12. Before concluding its consideration of the matter, the Committee invited the Committee's curator to provide by 26 February 2018 an analysis of the information to be received from Armenia and as necessary to revise draft decision VII/2 regarding Armenia for the Committee's consideration at its next session.

B Azerbaijan (EIA/IC/CI/2)

13. The Committee continued its consideration of the follow-up by Azerbaijan on decision VI/2 regarding its national legislation for the implementation of the Convention (paras. 38–44) and the review of draft decision VII/2 (paras. 48–53).

14. The Committee recalled that decision VI/2 (paras. 41–42) requested Azerbaijan to adopt its draft framework law on environmental assessment and subsequent implementing regulations in accordance with the Convention. It also recalled that at its thirty-eighth session (Geneva, 20–22 February 2017), the Committee had decided to invite Azerbaijan to a hearing during its present session to clarify the difficulties that had prevented the country from adopting its law and the regulations, despite the extensive technical assistance provided to it by the secretariat since 2012. It further recalled that the Committee had begun its initiative on Azerbaijan eight years ago, in 2009.

15. The Committee noted the information provided by Azerbaijan to the Committee and its correspondence with the secretariat dated 27 November 2017. It regretted that Azerbaijan had not been able to participate at the hearing and was requesting a postponement. The Committee pointed out that the participation at a hearing was an entitlement for a Party to present to the Committee information and opinions prior to the Committee's preparation of its findings and recommendations regarding that Party to the Meetings of the Parties. Taking into account that the discussion with Ukraine was

[1] Committee initiatives are designated by a symbol EIA/IC/CI/[number]. Information on these compliance cases is available from http://www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative.html

scheduled for its next session and mindful of the number of other compliance issues before it, the Committee agreed to consider at its next session the request of Azerbaijan to postpone the hearing. The Committee also asked its Chair to write to the Government of Azerbaijan requesting it to clarify the circumstances that had hindered the participation of its delegation at the hearing.

16. The Committee then examined the responses from Azerbaijan of 21 November 2017 to the Committee's questions of 23 October 2017. It noted that since February 2016 the draft law had been under review by the Cabinet of Ministers and that it was expected to be submitted to the parliament by the end of 2017. The draft framework law contained basic provisions for environmental impact assessment and strategic environmental impact assessment schemes, and provided for state ecological "expertiza" as a quality control mechanism. The procedural details were to be regulated by subsidiary regulations yet to be developed.[4]

17. The Committee also noted some deficiencies in the proposed legislative framework, including regarding transboundary environmental impact assessment procedures and, in particular, in defining transboundary impact and in setting up procedures for public participation. In that regard the Committee recalled its previous opinion that "details of the [environmental impact assessment] procedure, for example regarding public participation, should rather be included in the legislation than left for implementing regulations" (ECE/MP.EIA/10, decision IV/2, annex II, para. 32).

18. The Committee asked its Chair to write to the Government of Azerbaijan inviting it to review the draft law vis-à-vis the provisions of the Convention and to address all possible deficiencies before adopting the legislation. In the letter, the Chair should also request Azerbaijan to provide by 12 February 2017 a report on the progress made in adopting the law to implement the Convention, the English translation of the adopted law and a comprehensive overview of the proposed environmental impact assessment and strategic environmental assessment schemes. Finally, the Chair should inform Azerbaijan that the Committee had agreed to revise the relevant text of draft decision VII/2 at its subsequent sessions based on the information to be provided.

C. Bystroe Canal Project (EIA/IC/S/1)[5]

19. The Committee continued its consideration of the follow-up by Ukraine on decision VI/2 (paras. 15–28) and the review of draft decision VII/2 (paras. 13–28) in relation to the Danube-Black Sea Deep-Water Navigation Canal in the Ukrainian Sector of the Danube Delta (Bystroe Canal Project). Before leaving the room the member nominated by Ukraine informed the Committee that secondary legislation to implement the law on environmental impact assessment entering into force on 18 December 2017 had been prepared and submitted to the Cabinet of Ministers for adoption.

20. Based on the curator's analysis of the information from Romania dated 1 November 2017 and from Ukraine dated 22 November 2017, the Committee once again noted that Ukraine had made only limited progress in bringing the project into compliance with the Convention as required by the Meeting of the Parties to the Convention since 2008 in decisions IV/2 (paras. 12–14), V/4 (ECE/MP.EIA/15, decision V/4, para. 24) and VI/2 (paras. 24–25). The Committee also noted that Ukraine had not responded to the invitation

[4] The subsidiary regulations are foreseen to cover implementation mechanisms of environmental impact assessment, strategic environmental assessment and transboundary environmental impact assessment.

[5] Submissions by Parties concerning other Parties are designated by a symbol EIA/IC/S/[number]. Information on these compliance cases is available from http://www.unece.org/env/eia/implementation/implementation_committee_matters.html.

by Romania of September 2016 to provide comments and inputs to the draft text bilateral agreement that the two countries had been encouraged to conclude by decision VI/2 (para. 27).

21. Further to its deliberations at the thirty-ninth session (Geneva, 5–7 September 2017), and taking into account the discussions in the margins of Meeting of the Parties in Minsk, the Committee discussed and agreed on a draft action plan or a draft road map with concrete steps to be taken by Ukraine to bring the Bystroe Canal Project into full compliance with the Convention. The aim of the road map was to assist Ukraine in addressing its persistent non-compliance with the Convention.

22. The Committee asked its Chair to send the draft road map to the Government of Ukraine inviting it to provide by 12 February 2018 its comments and the indicative time frame for its implementation. In his letter, the Chair should invite Ukraine to attend the Committee's forty-first session (Geneva, 13–15 March 2018) for informal consultations on the proposed steps to bring the project into full compliance with the Convention and the time frame for their implementation.

23. To enable the Committee to finalize its draft recommendations to the intermediary session of the Meeting of the Parties regarding Ukraine, the Chair should also request Ukraine to report by 12 February 2018 on:

(a) Existing monitoring results and further consultations with Romania on the post-project analysis, according to article 7 of the Convention in accordance with paragraph 26 of decision VI/2;

(b) Progress achieved in developing the bilateral agreement with Romania for improved implementation of the Convention as set out in paragraph 27 of decision VI/2.

24. Referring to paragraph 25 of decision VI/2, Ukraine should also be invited to report by the same date on progress with regard to:

(a) The implementation of the Government strategy to implement the Convention, in particular the concrete legislative measures adopted to that effect;

(b) The concrete measures to bring the Bystroe Canal Project into conformity with the Convention, especially in relation to the measures in accordance with paragraph 19 of decision V/4.

25. In addition, the Committee asked its Chair to write to Romania requesting it to provide by 12 February 2018 recent reports of the working group meetings under the Danube Commission[6] that contained references to the continuation of dredging works by Ukraine in the canal.

26. On the basis of the information to be provided by Ukraine and Romania, the Committee requested the curator to prepare by 26 February 2017 an analysis and revised text of draft decision VII/2 on the matter for the Committee's consideration at its next session.

D. Belarus (EIA/IC/S/4)

27. Under the chairmanship of its first Vice-Chair, the Committee turned to the follow-up by Belarus with decision VI/2 (paras. 48–64) regarding the Ostrovets nuclear power plant.

28. The Committee considered an analysis by the curator of the information received from Belarus on 14 November 2017, from Lithuania on 31 August and from a Lithuanian

[6] See http://www.danubecommission.org.de/en/dan..be-commission

political party and Belarussian and Lithuanian non-governmental organizations of 5 September 2017.

29. The Committee noted a request from Belarus for the Committee to make the correspondence referred to in the report on the Committee's thirty-ninth session and, in general, "all the correspondence" related to the compliance matter promptly available to both concerned Parties. In accordance with its earlier general decision on the availability of the information on its ongoing deliberations (see para. 5 above), the Committee instructed the secretariat to contact the national focal point of Lithuania and the civil society representatives to request an authorization for it to forward the correspondence referred to in the report on the Committee's thirty-ninth session to Belarus and Lithuania and, if agreed, to then share that information with both Parties through their national focal points.

30. The Committee then initiated its review of draft decision VII/2 (paras. 54–65) concerning the matter, taking into account the Committee's deliberations at its ad hoc session in Minsk and the discussions held during and in the margins of the seventh session of the Meeting of the Parties. It recalled that during the previous intersessional period the Committee had not been able to reach a final conclusion on whether the steps taken by Belarus to take the final decision referred to in paragraph 51 of decision VI/2 brought the Party into compliance with the Convention's provisions without receiving answers to five questions on technical and scientific aspects of the environmental impact assessment documentation that it had put forward at its thirty-seventh session (Geneva, 12–14 December 2016).[7]

31. The Committee recalled that, at its ad hoc session, the Committee had examined the report on the Site and External Events Design (SEED) mission conducted by the International Atomic Energy Agency (IAEA) in January 2017 and had agreed that the report had properly answered its first question. The Committee had therefore decided to remove the first question from annex I to draft decision VII/2. However, the Committee had been unable to find answers to questions two, three and four in the report. Regarding the fifth and last question, the Committee had noted that, although the IAEA Site and External Events Design mission report did not mention the application of selection and exclusion criteria (such as the geological and seismo-tectonic structure of the site and seismic hazard assessment (probabilistic assessment)) for the assessment of the suitability of the nuclear power plant site, it included specific reference to the current seismic hazard at Ostrovets. The report indicated that there were no safety issues connected to seismic hazards related to ground motion and fault displacement, or to geotechnical issues like liquefaction, slope stability, cavities and karstic formations. For that reason, at its ad hoc session, the Committee had decided to also remove question five from the list.

32. The Committee maintained its opinion that the site selection remained the key issue. During its further deliberations on the matter, it was of the view that the Site and External Events Design mission report did not fully answer the fifth question. To support its subsequent deliberations, the Committee therefore decided to revise that question and in addition, introduced some modifications to the three remaining questions of annex I to draft decision VII/2.

33. Taking into account the outcomes of the discussions during and in the margins of the seventh session of the Meeting of the Parties, including on the possible sources of the required expert advice, the Committee agreed to turn to IAEA inviting it to provide its expert opinion and responses to the Committee's questions. The Committee requested the ECE Executive Secretary to write to IAEA, requesting it to provide answers to the questions regarding the Ostrovets nuclear power plant (see annex) in advance of the

[7] See annex I to the report of the thirty-seventh session (ECE/MP.EIA/IC/2016/6) and annex I to draft decision VII/2

Committee's next session. The Committee invited the secretariat first to circulate the draft letter for the Committee's comments by 15 December 2017.

34. Noting that Belarus had already provided extensive information on the matter, but also recognizing the need to have a straightforward compilation of the process of the site selection procedure in order to support its assessment, the Committee considered it relevant to request Belarus to provide a brief updated compilation of all existing information on the site selection process. It decided to agree on the list of questions to Belarus following its electronic decision-making procedure and asked its Vice-Chair to write a letter to Belarus requesting it to provide the information in advance of the Committee's next session.

35. The Committee also asked its first Vice-Chair to invite Belarus and Lithuania to report on progress in implementing decision VI/2 by the end of the year.

36. Finally, the Committee invited the curator to provide by 26 February 2018 an analysis of information to be received from Belarus and IAEA and to prepare a revised draft decision VII/2 regarding Belarus for the Committee's consideration at its next session.

III. Submissions

37. A representative of the secretariat noted that no submissions had been received since the Committee's previous session and that there were no earlier submissions still under consideration.

IV. Committee initiative[5]

38. Discussions on Committee initiatives were not open to observers, in accordance with rule 17 of the operating rules.

Committee initiative on the United Kingdom of Great Britain and Northern Ireland (EIA/IC/CI/5)

39. The Committee continued the consideration of its initiative on the United Kingdom of Great Britain and Northern Ireland regarding the planned construction of the Hinkley Point C nuclear power plant and its review of draft decision VII/2 (paras. 69–72) regarding the United Kingdom.

40. The Committee noted the information from the Environmental Pillar, an umbrella organization of Irish environmental non-governmental organizations, dated 8 November 2017 and the request from the United Kingdom of that same date for an extension of its deadline to report to the Committee on the outcomes of its discussions with the interested Parties concerning the planned activity to allow Ireland to carry out a public consultation. The Committee agreed to extend the reporting deadline for the United Kingdom until 12 February 2018 and to continue its deliberations at its next session on the basis of the information to be provided.

41. The Committee asked its Chair to write to the Government of the United Kingdom to inform it of the Committee's decision. The Committee also asked its Chair to write to the Government of Ireland to inform it about the wish of the Environmental Pillar to participate in the discussions initiated by the United Kingdom on Hinkley Point C and to invite Ireland

[5] Information on Committee initiatives, including relevant documentation, is available from http://www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative.html.

to grant the Irish public their right to participate in accordance with the provisions of the Espoo Convention.

V. Information gathering[9]

42. Discussions on information gathering were not open to observers, in accordance with rule 17 of the operating rules.

A. Convention matters

1. General opinion regarding the extension of the lifetime of nuclear reactors

43. The Committee Chair and the Secretary of the Convention briefed the Committee about the first meeting of the ad hoc working group established by the Meeting of the Parties at its seventh session to prepare under the co-leadership of Germany and the United Kingdom draft terms of reference for possible guidance on the application of the Convention to the lifetime extension of nuclear power plants (see ECE/MP.EIA/23/Add.1-ECE/MP.EIA/SEA/7/Add.1, decision VII/3-III/3, annex I, item I.9). The meeting had been hosted by the European Commission Directorate-General for Energy in Luxembourg on 27 and 28 November 2017. At that meeting, the ad hoc group had discussed a working paper containing elements of the draft terms of reference prepared by the co-lead countries. The Chair of the Implementation Committee had stressed to the ad hoc group the importance of the guidance in view of the continuously growing number of information-gathering cases on the lifetime extension of nuclear power plants before the Committee since 2014 and the number of nuclear power unit extensions foreseen in the Parties to the Convention in the coming years. The ad hoc group had agreed to next meet in Brussels on 20 and 21 February 2018 to prepare the draft terms of reference and to hold a dedicated workshop to discuss them during the seventh meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Geneva, 28–30 May 2018) with the participation representatives of the Implementation Committee, civil society and possibly IAEA, the Nuclear Energy Agency of the Organization for Economic Cooperation and Development and other interested stakeholders. In accordance with the mandate from the Meeting of the Parties, the Working Group was to consider adopting the terms of reference and could decide whether to extend the ad hoc group to also include organizations.

44. The Committee agreed that while waiting for the delivery of outputs from the ad hoc group led by Germany and the United Kingdom, the Committee was to continue gathering and analysing information on the lifetime extension of nuclear power plants that had been brought before it, in accordance with its mandate to review compliance by Parties with their obligations under the Convention.

2. Netherlands (ECE/IC/INFO/15), Belgium (EIA/IC/INFO/18), Czechia (EIA/IC/INFO/19), Ukraine (EIA/IC/INFO/20)

45. Owing to time constraints, the Committee decided to defer the deliberations on the lifetime extension of the power units of the Borssele nuclear power plant in the Netherlands, the Doel and Tihange nuclear power plants in Belgium, the Dukovany nuclear power plant in Czechia, and 11 power units located at the Rivne, South-Ukrainian,

[9] More information on information-gathering cases, including relevant documentation, is available from http://www.unece.org/environmental-policy/treaties/environmental-impact-assessment/areas-of-work/review-of-compliance/information-from-other-sources.html

Zaporizhzhya and Khmelnitsky nuclear power plants in Ukraine until its next meeting. The Committee noted, that some curators had experienced difficulties in filling in the template for a systematic comparative analysis of the available information and needed more time for that. The Committee invited the respective curators to continue their analysis based on the template with a view to identifying possible information gaps to be addressed through further communication between the Committee and the Parties concerned.

3. Other Convention matters

46. The Committee also postponed consideration of the information-gathering cases regarding compliance with the provisions of the Convention by Bosnia and Herzegovina in respect of the planned activities at the Ugljevik and Stanari thermal power plants; by Spain concerning the planned construction of individual temporary storage for radioactive waste at the Almaraz nuclear power plant; and by Belarus regarding the recently adopted law on State ecological expertise, strategic environmental assessment and environmental impact assessment.

47. It agreed to consider information submitted by a non-governmental organization from Bosnia and Herzegovina regarding two proposed activities in Bosnia and Herzegovina and by a German civil initiative regarding a proposed activity in Switzerland at its subsequent sessions.

B. Protocol matters

48. The Committee also decided to continue its deliberations concerning compliance with the provisions of the Protocol on Strategic Environmental Assessment by Serbia with regard to the Serbian Energy Development Strategy and its Spatial Plan at its subsequent sessions. Furthermore, owing to time constraints, it agreed to defer its consideration of information submitted by a non-governmental organization from the Republic of Moldova regarding a programme related to hydropower development in Ukraine until its next session.

VI. Review of implementation

A. Specific compliance issues under the Protocol

49. Owing to time constraints, the Committee decided to postpone its consideration of the specific issue of compliance by the European Union with the Protocol identified in the first review of implementation of the Protocol (ECE/MP.EIA/SEA/2014/3)[10] to its subsequent sessions.

[10] The draft document was subsequently adopted without changes by the Meeting of the Parties at its sixth session (Geneva, 2–5 June 2014). The first review is available on the ECE website as an online publication from http://www.unece.org/env/eia/implementation/review_implementation.html and http://www.unece.org/index.php?id=40641.

B. Examination of general and specific compliance issues from the fifth review of implementation of the Convention and second review of implementation of the Protocol

50. Taking into account the time limitations at its present session, the Committee agreed to consider at its subsequent sessions the general and specific compliance issues identified in the fifth review of implementation of the Convention and the second review of implementation of the Protocol adopted by the Meetings of the Parties to the Convention and the Protocol through decisions VII/1–III/1.[11]

C. Modification of the questionnaires

51. The Committee agreed on modifications to the questionnaires for the sixth review of the implementation of the Convention and the third review of the implementation of the Protocol taking into account the suggestions for improving the questionnaire received from Parties.[12] It instructed the secretariat to submit the revised draft questionnaires for information and possible comments to the Bureau at is meeting on 7 and 8 February 2018. As needed, the revised draft questionnaires would then be further revised based on the Bureau's comments, and circulated to the Committee by the end of February 2018 with a view to being finalized at the Committee's forty-first session in March 2018. Finally, the revised questionnaires would be submitted to the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment for consideration and agreement at its meeting in May 2018.

VII. Presentation of the main decisions taken and closing of the session

52. The Committee confirmed that it would next meet from 13 to 15 March 2018 and, if feasible, would extend the session by an additional day. The secretariat was invited to confirm the availability of a room and interpretation for either 12 or 16 March with preference expressed for 16 March. With a view to preparing a revised draft decision VII/2 and progressing on the postponed matters, the Committee also agreed to hold virtual meetings before its March session. It requested that the final dates for the virtual meetings be communicated at least one week in advance.

53. The Committee also agreed that it would hold its forty-second session from 11 to 13 September and its forty-third session from 4 to 6 December 2018 in Geneva.

54. The Committee adopted the draft report of its session, prepared with the support of the secretariat. The Committee members nominated by Belarus, Lithuania and Ukraine were absent during the review and adoption of the Committee's report on items where a direct or indirect conflict of interest could arise. The Chair then formally closed the fortieth session.

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[11] The *Fifth Review of Implementation of the Convention on Environmental Impact Assessment in a Transboundary Context* (ECE/MP.EIA/25) and the *Second Review of Implementation of the Protocol on Strategic Environmental Assessment* (ECE/MP.EIA/SEA/9) will both be issued as official publications in the first quarter of 2018.

[12] See the informal document prepared for the Working Group's sixth meeting (Geneva, 7–10 November 2016) ECE/MP.EIA/WG.2/2016/6/INF.6, available from http://www.unece.org/index.php?id=42745#/ (informal documents tab).

Annex

List of questions to the International Atomic Energy Agency in relation to the follow-up by Belarus with decision VI/2 regarding the Ostrovets nuclear power plant (EIA/IC/S/4)

1. Are there, according to current international rules, recommendations or guidelines, any criteria assigned for the area around a commercial nuclear power reactor for which the population density has to be assessed in order to take into account the radiological impact of a major accident and to prepare accordingly the emergency measures? If so, were these followed in the case of the Ostrovets nuclear power plant? Please specify.

2. Is there, according to current international rules, recommendations or guidelines, a requirement to assess, prior to authorizing the construction of a commercial nuclear power reactor, the risks for contamination of rivers and groundwaters by radionuclides through direct discharge of contaminated water into the environment or through the air following a scenario of a major accident? If so, has the Ostrovets nuclear power plant been assessed in accordance with such a requirement? Please specify.

3. Is there, according to current international rules, recommendations or guidelines, a requirement to assess the management of radioactive waste and spent fuel (near surface repository or deep geological disposal) from a commercial nuclear power reactor prior to authorizing the construction of such a reactor? If so, has the Ostrovets nuclear power plant been assessed in accordance with such a requirement? Please specify.

4. According to the results presented in the IAEA SEED mission report, the Ostrovets nuclear power plant in itself fulfils the requirements according to current international rules, recommendations or guidelines regarding selection and exclusion criteria (for example, the geological and seismo-tectonic structure of the site and the seismic hazard assessment (probabilistic assessment)). Were such requirements applied in the selection of the Ostrovets site compared with the other sites which were also examined? Was the information provided in the environmental impact assessment and other documentation available to the IAEA during the SEED mission or earlier sufficient to have an idea of the selection process and the way that the preferred alternative was chosen? Please specify.